

REMARKS

The Office action dated August 9, 2005 is acknowledged. Claims 1-14 are pending in the instant application. According to the Office action, claims 1-4 and 7-14 are rejected and claims 5 and 6 are objected to. The applicant wishes to thank the Examiner for the conclusion that claims 5 and 6 contain allowable subject matter. By the present response, claims 1, 2, 6, 9, 12 and 14 are amended, claims 4 and 5 are canceled and claims 15 – 19 have been added.

New claim 15 depends from claim 12 and incorporates the deleted portion of claim 12.

New claims 16 and 17 recite language that the at least two compartments are securable together by a securing device. Support for this amendment can be found in the specification at paragraph 000037 and in Figure 9.

New claims 18 and 19 recite the allowable subject matter of claims 5 and 6 in independent form and pertain to a cap for use with a device for holding a repellent for producing an odor.

The specification has also been amended to correct a few informalities. Further clarification of the term “tabs” and “rim” on the cap of the present invention is also provided by the amended specification. Furthermore, Figure 3 (sheet 2/5) has been amended to reflect the specification amendments. In particular, reference number 41 has been added which refers to the “rim.” Replacement sheet “2/5” with Fig. 3 is enclosed.

Reconsideration is respectfully requested in light of the aforementioned amendments and the following remarks. No new matter has been added.

Objection of Claim 4

As explained on page 2, first paragraph, of the Office action, claim 4 has been objected to as being improper for failing to conform to the invention as set forth in the remainder of the specification. Specifically, the Examiner suggests that the specification does not support corresponding language for a “rim” when teaching the removable cap 4.

The applicant submits that the specification has been amended to provide proper support for the term “rim” in relation to the cap, namely that the periphery of the cap is defined by a rim. Paragraphs 000029 and 000033 have been amended to clarify this feature of the present invention and now support the term “rim.” Support for this term can be found in the drawings, namely in Figures 3, 6, 7, 8, 9 and 10, as well as in original claim 4. The applicant also notes that claim 4 has been with the relevant subject matter having been incorporated into claim 1, as explained further below. Withdrawal of this objection is respectfully requested.

Rejection of Claims 4, 9, 12 and 14 under 35 U.S.C. 112

Claims 4, 9, 12 and 14 have been rejected under 35 U.S.C. 112 for various matters. Specifically, the Examiner states claim 4 lacks sufficient antecedent basis for the term “said rim” in line 3; claim 9 lacks sufficient antecedent basis for “said congealing substance;” claim 12 lacks sufficient antecedent basis for “said essential oil;” and claim 14 recites “of said at least two compartments” in line 12, but “a compartment” in the preamble.

Claim 4 has been canceled and incorporated into claim 1. Moreover, proper antecedent basis for the term “said rim” has been provided accordingly.

Regarding claims 9 and 12, antecedent basis for the terms “congealing substance” and “essential oil,” respectively, is provided in claim 2. Both claims have been amended to depend from claim 2 rather than claim 1.

Lastly, claim 14 has been amended so that line 12 is consistent with “a compartment” recited earlier in the claim.

In light of the aforementioned amendments, withdrawal of these rejections is respectfully requested.

Rejection of Claims 1-3 and 7-14 under 35 U.S.C. 103(a)

Claims 1-3 and 7-14 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,857,579 (Harris), in view of U.S. Patent Nos. 3,888,416 (Lin) and 5,231,246 (Benson, et al.) and further in view of U.S. Patent No. 5,782,409 (Paul). The Examiner states that Harris teaches a device for holding an odor-producing repellent, as set forth in claims 1 and 14. The Examiner points out that Harris fails to teach the at least one slot, and relies on Lin for this deficiency. The Examiner also states that Harris fails to teach a pair of substantially parallel strips extending outwardly from the two compartments, but refers to Benson, et al. for the teaching. Lastly, the Examiner states that Harris fails to teach the use of Cymbopogon flexuosus as an essential oil for the impregnated paraffin, but relies on Paul for such teaching. The Examiner concludes that it would be obvious to one skilled in the art to combine these teachings in order to arrive at the present invention as recited in claims 1-3 and 7-14.

The applicant respectfully submits that in light of the amendments to claims 1 and 14 set forth above, the rejection under Section 103(a) should be withdrawn. As indicated

by the Examiner, claims 5 and 6 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Accordingly, the allowable subject matter of claim 5 (and the subject matter of claim 4, from which claim 5 depends) has been incorporated into claim 1, as well as claim 14. As such, claims 1 and 14 recite the limitation of the removable cap comprising at least one orifice for facilitating the transmission of the odor from inside the at least two compartments. This limitation of the present invention, as acknowledged by the Examiner, is not taught or disclosed in the prior art. Claim 6 has been amended to depend from claim 1. Accordingly, withdrawal of this rejection is respectfully requested.

Conclusion

For the foregoing reasons, it is respectfully submitted that the present application is in condition for allowance, and such action is earnestly solicited. The Examiner is invited to call the undersigned if there are any remaining issues to be discussed which could expedite the prosecution of the present application.

Respectfully submitted,

Date: November 1, 2005

By: Sean F. Mellino
Sean F. Mellino
Reg. No. 48,817

D. Peter Hochberg Co., L.P.A.
1940 E. 6th St. – 6th Floor
Cleveland, OH 44114-2294
(216) 771-3800
Enc. Amended Figure 3 (Sheet 2/5)